

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

---

PRESTON PORTIS, JR.,

Plaintiff,

Case No. 1:09CV846

v.

Hon. Robert J. Jonker

PATRICIA CARUSO, et al.,

Defendants.

---

**ORDER**  
**APPROVING REPORT AND RECOMMENDATION**

The court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action. The Report and Recommendation was duly served on the parties on July 28, 2010. No objections have been filed pursuant to 28 U.S.C. § 636(b)(1)(C), despite an extension of the objection period to September 1, 2010, by Order of the Court (docket #65).

**THEREFORE, IT IS ORDERED** that the Report and Recommendation of the Magistrate Judge, filed July 28, 2010, is approved and adopted as the opinion of the court.

**IT IS FURTHER ORDERED** that:

(1) the motion to dismiss (docket #23) filed by Dr. Burgess is **GRANTED**. Dr. Burgess is dismissed from this case;

(2) the motion to dismiss filed by Dr. Nelson and P.A. Rohrs, (docket #35) which is construed as a motion to quash, is **GRANTED**, with leave for plaintiff to attempt valid service; that the Clerk's Office re-issue the summonses to Dr. Nelson and P.A. Rohrs, and that the United States Marshal Service personally service a copy of the summons and complaint on these two defendants;

(3) the motion for summary judgment filed by Director Caruso, Dr. Pandya and Warden Prelesnik (docket #36) is **GRANTED** and they are dismissed from this case;

(4) that the motion for summary judgment filed by R.N. Habtemariam (docket #36) is **GRANTED** as to the claim that there was a delay in treating plaintiff's May 13, 2008 injury, dismissing that claim; and

(5) the motion to dismiss filed by CMS (docket #45) is **GRANTED**, dismissing CMS from this action.

/s/ Robert J. Jonker  
ROBERT J. JONKER  
UNITED STATES DISTRICT JUDGE

DATED: September 13, 2010